

**MEDICAL EXAMINING BOARD
REGULAR MEETING
DECEMBER 17, 2003**

MEMBERS PRESENT: Drs. Alfred Franger, Ronald Grossman, Jon Gudeman, Sidney Johnson, Lief Erickson, Jack Lockhart, Ian Munro, and Mary Cook, JD; Karen Kalishek, and Virginia Heinemann

MEMBERS EXCUSED: Drs. Sandra Mahkorn, Daniel Miota, Bhupinder Saini

STAFF PRESENT: Tom Ryan, Bureau Director; Wayne Austin, Legal Counsel; Pamela Meicher, Program Assistant; and DOE staff for a portion of the meeting

GUESTS: Mark Grapentine and Jeremy Levin, State Medical Society of Wisconsin; Shelley Raebel, Purdue Pharma; and Jeff Levens

CALL TO ORDER

Chair Sidney Johnson called the meeting to order at 8:00 a.m.

APPROVAL OF AGENDA

Amendments:

- Death Cases Report
- Three Year Cases Report
- Dual Disorders Symposium
- Total Pending Cases Report
- Memorandum from Mary R. Cook – Citizen Advocacy Center 2003 Annual Meeting
- December 18 Federation Roundtable
- Reconsideration of Chung Order
- 2003 Assembly Bill 689
- Assembly Bill 655 – Fiscal Bureau Analysis
- Decision and Order – James L. Flowers

MOTION: Jack Lockhart moved, seconded by Alfred Franger, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES NOVEMBER 19, 2003

Amendments:

- Page 2 – Correct spelling of Jack Lockhart
- Page 8 – Under Administrative Report, correct victim to complainant

MOTION: Alfred Franger moved, seconded by Ronald Grossman, to approve the minutes of November 19, 2003, as amended. Motion carried unanimously.

ADMINISTRATIVE REPORT

DRL STAFF CHANGES:

Chair Sidney Johnson announced that Wayne Austin, Legal Counsel, will retire this month after 25 years of service with the State. Tom Ryan referred the Board to a memorandum written by William Dusso to Department employees on Mr. Austin's career in the Department. Mr. Ryan announced that Mr. Dusso, the agency's general counsel, is also retiring in mid-January. Jacquelynn Rothstein, Legal Counsel, will provide legal services to the Board during the transition period.

REPORT ON NBME CLINICAL SKILLS LEARNING LAB – DR. FRANGER, TOM RYAN:

Dr. Franger and Tom Ryan attended the USMLE Clinical Skills Learning Lab held in Philadelphia. They toured an examination station that is currently used by foreign student examinees and spoke to the simulated patients that take part in the examination. The graduating class of 2005 will be the first group to sit for the June examination. Five centers will be opening across the country. The cost is \$975.00 plus travel.

ELECTION OF OFFICERS– REMINDER:

Dr. Franger advised the Board that election of officers will take place at the January 21, 2004 Board meeting.

2004 BOARD MEETING DATES:

Mr. Ryan reported the meetings in April and November will be held in room 180.

PRESENTATION OF STIPULATION IN THE MATTER CONCERNING EDGAR K. OLIVEIRA FILHO, MD – CASE ADVISOR VIRGINIA HEINEMANN

DOE Attorney James Polewski presented the proposed Stipulation in the matter concerning Edgar K. Oliveira Filho, MD. This matter will be deliberated on in closed session.

DEPARTMENT RULE DRAFT, WIS. ADMIN. CODE § RL 4.07 – EXAMINATION CHEATING – DISCUSSION

Tom Ryan discussed the Department's scope statement on uniform reexamination restrictions and other penalties for applicants who cheat on examinations. The Department is promulgating a rule on cheating due to the increase of examination cheating within many professions. The scope statement has been sent to the Capitol and is expected to be published next month.

STATE MEDICAL SOCIETY BOARD MEETING ATTENDANCE BY MEB MEMBERS - DISCUSSION

Chair Sidney Johnson and Karen Kalishek plan to attend the SMS Board meeting on 12/08/03. They plan to express the Board's concerns about the SMS's Council on Mediation and Peer Review and hope to address issues concerning the public. The Board would like to see the SMS website updated to more accurately characterize DRL jurisdiction and to ensure the public is informed that DRL has sole jurisdiction to take binding disciplinary action against a license.

FSMB PRESENTATION – BRIEF Q & A

Thomas D. Kirksey, MD, Chair of the Board of Directors and Dale L. Austin, Senior Vice President and Chief Operating Officer of the FSMB, gave a presentation to the Board covering the mission, vision, core values, goals and resources of the FSMB.

REVIEW CORRESPONDENCE – MS. NANCY MCFADDEN, APPLETON, WI, VIA SENATOR MICHAEL ELLIS, MEMORANDUM FROM BOARD LEGAL COUNSEL

Tom Ryan discussed the letter from Senator Ellis addressing Nancy McFadden's concern about the outsourcing by hospitals of radiology services to firms in India. The Board has some concerns about the license status of outsource interpreters. A sub-committee made up of Drs. Johnson, Lockhart, Erickson, Munro, and Karen Kalishek will meet to further define what the law allows and possible changes.

REPORTS OF PENDING COURT CASES, DISCIPLINARY CASES, ADMINISTRATIVE RULES AND LEGISLATION

AB 689

Tom Ryan reported the Pharmacy Examining Board's (PEB) position on Assembly Bill 689 relating to prescription drug labels.

MOTION: Alfred Franger moved, seconded by Virginia Heinemann, in favor of the mandatory provisions of AB 689 being voluntary. Motion carried unanimously.

AB 655

MOTION: Alfred Franger moved, seconded by Virginia Heinemann, in favor of the Board Chair authorizing any Board member to testify on AB 655 if necessary. Motion carried unanimously.

MOTION: Virginia Heinemann moved, seconded by Alfred Franger, in favor of maintaining the role of the hearing examiner in AB 655. Motion carried unanimously.

MOTION: Virginia Heinemann moved, seconded by Alfred Franger, in favor of writing a letter to the legislature supporting the role of the hearing examiner and that the Board does not want it removed from AB 655. Motion carried unanimously.

The Board requested that it receive more frequent alerts when legislative activity occurs which affects the Board.

MOTION: Jack Lockhart moved, seconded by Ronald Grossman, in favor of the Department contacting Dr. Johnson or Virginia Heinemann if any action is required by the MEB on any bills. Motion carried unanimously.

CONSIDERATION OF FSMB CALL FOR NOMINATIONS AND APPOINTMENT

There were no nominations to be submitted to the FSMB for elections.

REPORT OF SCREENING COMMITTEE

Virginia Heinemann reported the Screening Committee reviewed 34 cases. Six cases were opened, 26 cases were not opened and two cases required more information.

The Screening Panel for January will include Drs. Lockhart, Erickson and Mary Cook, JD. The Screening Panel for February will include Drs. Franger, Gudeman, and Karen Kalishek.

INFORMATIONAL ITEMS

The Board noted the letter to State Representative Gregg Underheim expressing their position that the bill relating to chelation therapy is unnecessary.

RECESS TO CLOSED SESSION

MOTION: Lief Erickson moved, seconded by Alfred Franger, to convene to closed session to deliberate on cases following hearing (Wis. Stat. § 19.85 (1) (a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § (1) (b)), and Wis. Stat. § 440.205; consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll call vote: Drs. Sidney Johnson – yes, Alfred Franger – yes, Ronald Grossman – yes, Jon Gudeman, Jack Lockhart-yes, Lief Erickson-yes, Ian Munro-yes, and Mary Cook-yes; Karen Kalishek-yes, Virginia Heinemann-yes. Motion carried unanimously.

Open session recessed at 10:45 a.m.

ISSUE COMPLAINT – 02 MED 386

MOTION: Alfred Franger moved, seconded by Jon Gudeman, in favor of a finding of probable cause that the licensee conduct in case 02 MED 386 is unprofessional, that a complaint be issued, and that a hearing be held. Ian Munro abstained. Motion carried.

PROPOSED STIPULATION IN THE MATTER CONCERNING EDGAR K. OLIVEIRA FILHO, MD – CASE ADVISOR VIRGINIA HEINEMANN

MOTION: Jack Lockhart moved, seconded by Mary Cook, in favor of rejecting the Stipulation in the matter concerning Edgar K. Oliveira Filho, MD and to recommend considering the North Dakota Order. Motion carried unanimously.

REQUEST FOR WAIVER OF CE, WIS. STAT. § 448.13 (1) AND WIS. ADMIN. CODE & MED 13.02 (2); CONSIDERATION OF WIS. ADMIN. CODE § 10.02 (P) REFERRAL – THOMAS J. DEKORNFELD

Wayne Austin, Legal Counsel, will write a letter to Thomas J. Dekornfeld advising him that if he can indicate a circumstance which would provide the Board a basis for granting his waiver of continuing education, the Board would reconsider his request.

REQUEST FOR WAIVER OF CE, WIS. STAT. § 448.13 (1) AND WIS. ADMIN. CODE & MED 13.02 (2) – RICHARD L. BUECHEL

MOTION: Mary Cook moved, seconded by Lief Erickson, in favor of approving the request for waiver of continuing education in the matter concerning Richard L. Buechel. Motion carried unanimously.

BOARD ORAL EXAMINATION ON APPLICATION – ASHWINI PRASAD

MOTION: Lief Erickson moved, seconded by Ian Munro, in favor of failing this candidate on her oral examination. Motion carried unanimously.

BOARD ORAL EXAMINATION ON APPLICATION – SLOBODAN ZEC

MOTION: Ian Munro moved, seconded by Alfred Franger, in favor of failing this candidate on his oral examination. Motion carried unanimously.

SCOTT CONANT – REQUEST FOR THREE MONTH STAY OF SUSPENSION WITH MODIFICATIONS

MOTION: Ronald Grossman moved, seconded by Lief Erickson, to grant a three month stay of suspension in the matter concerning Scott Conant and approve his order modification request to reduce his screens from twice a month to once a month. Motion carried unanimously.

EDWARD COONEY – REQUEST FOR THREE MONTH STAY OF SUSPENSION

MOTION: Lief Erickson moved, seconded by Ronald Grossman, to grant a three month stay of suspension in the matter concerning Edward Cooney. Motion carried unanimously.

TIMOTHY STAACKE – REQUEST FOR FULL LICENSURE

MOTION: Alfred Franger moved, seconded by Karen Kalishek, to deny the request for full licensure to Timothy Staacke. Lief Erickson was absent during deliberations and abstained. Motion carried.

**NICHOLAS GEIMER, MD –
REQUEST FOR THREE MONTH STAY OF SUSPENSION,**

MOTION: Ronald Grossman moved, seconded by Alfred Franger, to grant a three month stay of suspension in the matter concerning Nicholas Geimer, MD. Motion carried unanimously.

JEFFREY JUNIG, MD – REQUEST FOR THREE MONTH STAY OF SUSPENSION WITH MODIFICATIONS

MOTION: Jon Gudeman moved, seconded by Ronald Grossman, to grant a three month stay of suspension in the matter concerning Jeffrey Junig, MD, and request a therapy report from Dr. Linaberry is sent to the Board by January 17, 2004. Motion carried unanimously.

JOSEPH LE VAN, MD – REQUEST FOR FULL LICENSURE

MOTION: Alfred Franger moved, seconded by Ronald Grossman, to grant full licensure to Joseph Le Van, MD. Motion carried unanimously.

THOMAS STRICK – REQUEST FOR THREE MONTH STAY OF SUSPENSION

MOTION: Lief Erickson moved, seconded by Ronald Grossman, to grant a three month stay of suspension in the matter concerning Thomas Strick. Motion carried unanimously.

**PETITION FOR RE-HEARING – DISCIPLINARY PROCEEDINGS AGAINST
WILLIAM FABER, DO**

MOTION: Ronald Grossman moved, seconded by Alfred Franger, in favor of accepting the offer of settlement in the matter concerning William Faber, DO, as provided by Raymond M. Roder. Motion carried unanimously.

RECONSIDERATION OF CHUNG ORDER

MOTION: Ronald Grossman moved, seconded by Alfred Franger, in favor of referring the matter concerning Dr Chung back to DOE. Motion carried unanimously.

ADMINISTRATIVE WARNING – 02 MED 375

MOTION: Alfred Franger moved, seconded by Lief Erickson, in favor of approving the Administrative Warning in the matter concerning case number 02 MED 375. Motion carried.

CASE STATUS REPORT

MOTION: Virginia Heinemann moved, seconded by Ronald Grossman, to close complaints **03 MED 213** for no violation. Motion carried unanimously.

MOTION: Lief Erickson moved, seconded by Ian Munro, to close complaint **02 MED 375** for insufficient evidence. Motion carried unanimously.

MOTION: Alfred Franger moved, seconded by Lief Erickson, to issue an Administrative Warning to Chad Van den Heuvel for providing false information during an investigation. Ian Munro recused himself. Motion carried.

MOTION: Virginia Heinemann moved, seconded by Ian Munro, to close complaint **02 MED 371** for prosecutorial discretion. Motion carried unanimously.

MOTION: Alfred Franger moved, seconded by Karen Kalishek, to close complaint **03 MED 142** for compliance gained. Motion carried unanimously.

MOTION: Alfred Franger moved, seconded by Lief Erickson, to request that Sajid Mehmood come to the department for an oral examination. Motion carried unanimously.

MOTION: Ian Munro moved, seconded by Alfred Franger, to rescind the order and close case 03 MED 472. Motion carried unanimously.

RATIFYING LICENSES AND CERTIFICATES

MOTION: Alfred Franger moved, seconded by Virginia Heinemann, to ratify the applicants as licensed to practice medicine and surgery in the State of Wisconsin. Motion carried unanimously.

RECONVENE IN OPEN SESSION

MOTION: Alfred Franger moved, seconded by Ronald Grossman, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 1:15 p.m.

VOTING ON ITEMS CONSIDERED/DELIBERATED ON IN CLOSED SESSION

MOTION: Alfred Franger moved, seconded by Karen Kalishek, to vote to accept all motions made during closed session. Motion carried unanimously.

ADJOURNMENT

MOTION: Alfred Franger moved, seconded by Lief Erickson, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:18 p.m.